

* * R E M A R K S * *

Applicants wish to acknowledge with appreciation the Examiner's analysis and efforts in examining this application.

The Official Action of June 28, 2006, has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

As a preliminary matter, the Examiner objected to the drawings because Fig. 1 did not include cross-section line II-II. Fig. 1 has, therefore, been amended to indicate the section line II-II. The Examiner also objected to the amended text on page 2, lines 7-9 of the amendment filed on 22 February 2006 where the section line is described as "11-11" in the brief description of Fig. 2. This text has, therefore, been further amended to recite "II-II." Withdrawal of these objections is respectfully requested.

On pages 3 and 4 of the Official Action, the Examiner objected to Claims 11 and 12. Claim 11 has been canceled and Claim 12 has been amended removing the "removable portions" language. It is, therefore, respectfully believed that this objection is now moot, so withdrawal of the same is respectfully requested.

On pages 4-5 of the Office Action the Examiner rejected Claims 8, 13, and 16 under 35 U.S.C. § 102(b) for being anticipated by Sinanan (U.S. Patent No. 5,852,895). The Examiner alleges that regarding Claim 8 that Sinanan discloses a landscaping channel liner apparatus (see Fig. 6 embodiment) comprising: a longitudinally-extending trough (planter box 61) having a longitudinally-extending floor (bottom wall of planter box 61) located between opposed longitudinally-extending sidewalls (side walls of planter box 61) extending therefrom, and having first and second opposed transverse open ends (open ends at left and right ends of each section of planter box 61) formed from the floor and sidewalls; wherein each of the

sidewalls defines a longitudinally-extending edge located opposite the longitudinally-extending floor; a receptacle (inwardly turned/rolled upper edges 63) located on each of the longitudinally-extending edges; a connector (hose-like conduit 65) engaged with the receptacle (inwardly turned/rolled upper edges 63), extending therefrom, and spaced apart from and positioned substantially parallel to the longitudinally-extending edge; and a selectively removable portion (support bracket 67) configured to receive a post (the claim language of “configured to receive a post” is a recitation of intended use which the Examiner must show that the reference is capable of performing, and clearly the support bracket 67 of Sinanan is capable of performing the intended use of receiving a post since the bottom of the support bracket 67 has a downwardly opening sleeve 71 which receives a ground spike 73 (i.e., post)).

Applicants incorporate herein the arguments made in the prior response dated 22 February 2006, making reiteration of the same unnecessary. That being said, the Examiner’s rejections are now believed moot in light of the amendments. For clarity purposes, the “landscaping channel liner apparatus” was amended to simply recite a “landscaping channel liner.” With respect to Claim 8, amendments such as the longitudinally-extending floor configured to be supported by the ground, longitudinally-extending receptacle which terminates prior to termination of longitudinally-extending edge, and a panel section identifiable by a plurality of seams and being selectively removable wherein such a removed panel section results in an opening configured to receive a fence post, further clarify the claim based on disagreements between the Applicants and Examiner, as expressed in the prior office actions and responses. Support for the amendments is evident throughout the specification and the drawings. Therefore, in addition to the Applicants’ position that Sinanan’s raised planter does not disclose a landscaping channel liner configured to be supported by the ground, nor that a longitudinally-extending receptacle terminates prior to termination of the longitudinally-extending edge (the inwardly turn/rolled upper edges 63 extend the same length as its “edge”), Sinanan, alone, or in view of Ter Horst, fail(s) to disclose a “panel section” located in the floor that is identifiable by a

plurality of seams and is selectively removable from the floor. Furthermore, Sinanan fails to disclose that such a panel section once removed results in an opening configured to receive a fence post that extends through the opening. It is, therefore, respectfully believed that the Examiner's rejections are moot and withdraw of same is respectfully requested.

As to Claim 13, the Examiner alleges Sinanan discloses the landscaping channel liner apparatus of Claim 8 as discussed above, and that the connector (hose-like conduit 65) interference fits in the receptacle (inwardly turned/rolled upper edges 63). As to Claim 16, the Examiner alleges that Sinanan discloses the landscaping channel liner apparatus of Claim 8 as discussed above, and discloses that the selectively removable portion is a plurality of selectively removable portions (a support bracket 67 at the left and right ends of each section of planter box 61 constitutes "a plurality of selectively removable portions" (see col. 4, lines 51-55)).

The Examiner's rejection is believed moot in light of Claim 13's dependency on Claim 8. With respect to the rejection of Claim 16, it has been amended to recite that the "panel section includes a plurality of interior panel sections each of which is selectively removable from the floor." These amendments remove the selectively removable portions which the Examiner inferred was present in Sinanan. Thus, it is respectfully requested that this rejection be withdrawn.

On pages 6-8 the Examiner rejected Claims 8, 11, 13, and 16 under 35 U.S.C. § 102(b) for being anticipated by Sinanan as evidenced by Ter Horst. The Examiner alleges that regarding Claim 8, Sinanan discloses a landscaping channel liner apparatus (see Fig. 6 embodiment) comprising: a longitudinally-extending trough (planter box 61) having a longitudinally-extending floor (bottom wall of planter box 61) located between opposed longitudinally-extending sidewalls (side walls of planter box 61) extending therefrom, and having first and second opposed transverse open ends (open ends at left and right ends of each section of planter box 61) formed from the floor and sidewalls; wherein each of the sidewalls

defines a longitudinally-extending edge located opposite the longitudinally-extending floor; a receptacle (inwardly turned/rolled upper edges 63) located on each of the longitudinally-extending edges; a connector (hose-like conduit 65) engaged with the receptacle (inwardly turned/rolled upper edges 63), extending therefrom, and spaced apart from and positioned substantially parallel to the longitudinally-extending edge; and a selectively removable portion configured to receive a post (the claim language of “a selectively removable portion configured to receive a post” imparts no structure that is not shown by Sinanan so that one of ordinary skill in the art would consider Sinanan to inherently have a selectively removable portion because any portion of Sinanan’s floor and sidewalls is selectively removable, as by cutting, punching, etc., to receive a post or other structure as evidenced by Figs. 1A, 1B, 2, 3, and 4 of Ter Horst).

In light of the amendments made to Claim 8, and the reasons previously discussed, Sinanan does not include all the limitations of Claim 8 either alone or in view of Ter Horst. Accordingly, it is respectfully believed that this rejection is moot and withdrawal of the same is respectfully requested. With respect to Claim 11, it has been canceled and Claims 13 and 16 have been previously addressed, also making these rejections moot. It is, therefore, respectfully requested that these rejections be withdrawn as well.

On pages 8 and 9 the Examiner rejected Claims 9 and 10 under 35 U.S.C. 103(a) as being unpatentable over Sinanan, either alone as discussed on pages 4-5 or as evidenced by Ter Horst as discussed on pages 6-7, in view of Reum et al. (U.S. Patent No. 4,761,923). As to Claim 9, the Examiner alleges that Sinanan, either alone or as evidenced by Ter Horst, discloses the landscaping channel liner apparatus of Claim 8 as discussed above either on pages 4-5 or on pages 6-7, respectively. The Examiner concluded that Sinanan, either alone or as evidenced by Ter Horst, fails to explicitly disclose that a receptacle from a second landscaping channel liner apparatus engages the connector by fitting between the longitudinally-extending edge and the connector. The Examiner asserts, however, that Reum et al. discloses a landscaping edging

apparatus (11 in Fig. 19-21 embodiment) having sidewalls which each have a receptacle (14) on longitudinally-extending edges thereof wherein a receptacle (14) from a second landscaping channel liner apparatus (11) engages the connector (71) by fitting between the longitudinally-extending edge and the connector (71). See col. 8, lines 10-58 and figs. 19-21, wherein Reum et al. discloses an embodiment having a fluid coupler 71 which is hollow and has ends that are open to permit water to flow therethrough (lines 21-22) and tubular rails 14 with spaced drip/spray holes (line 50) which are capable of spraying or dripping water. The Examiner contended it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan, either alone or as evidenced by Ter Horst, by substituting the overlapping sidewall (due to the cut-out or notched portion of the tubular rail 14 as most clearly seen in Fig. 1 of Reum et al.), tubular rail (14 having spaced drip or spray holes - see col. 8, line 50), and fluid coupler (71) type of connection as taught by Reum et al. for the abutting ends of the inwardly turned/rolled upper sidewall portion (63) and hose-like conduit (65) type connection of the planter box sections (61) of Sinanan in order for the nested sidewalls to provide greater strength (due to double thickness) and less chance of separation at abutted ends, while still maintaining the spraying water function. See Reum et al., col. 5, lines 37-44 which teaches the desirability of nesting the end portions of the sidewalls to facilitate installation and co-axial alignment of mating sections. As to Claim 10, the Examiner alleges that Sinanan, either alone or as evidenced by Ter Horst, discloses the landscaping channel liner apparatus of Claim 8 as discussed above either on pages 4-5 or pages 6-7, respectively. The Examiner, however, determined that Sinanan, either alone or as evidenced by Ter Horst, fails to explicitly disclose that the floor of a second landscaping channel liner apparatus overlaps a portion of the floor of the landscaping channel liner apparatus. The Examiner concluded that Reum et al. discloses a landscape edging apparatus (11 in Figs. 19-21 embodiment) having sidewalls which each have a receptacle (14) on longitudinally-extending edges thereof wherein the receptacle (14) on one sidewall is shorter than the length of the sidewall so that sidewalls on

adjacent landscape edging apparatus (11) overlap. The Examiner further noted that Reum et al. does not explicitly disclose that a portion of the floor of a second landscaping channel liner apparatus would overlap a portion of the floor of the landscaping channel liner apparatus. The Examiner concluded that Sinanan, either alone or as evidenced by Ter Horst, modified by Reum et al. as set forth in Claim 9 above would necessarily have overlapping floors in the same manner as the overlapping sidewalls.

In light of the previous amendments, it is respectfully believed that these rejections are now moot. In any event, it is respectfully believed that the combination of Reum with Sinanan and Ter Horst does not teach each and every limitation in Claim 8. In particular, the combination of the three references fails to teach a channel liner itself, or the liner configured to be supported by the ground, the overlapping floors with the longitudinally-extending receptacles that terminate prior to the termination of the longitudinally-extending edge, and the removable panel section on the floor. There is also no motivation to combine the references because they all serve different functions. The raised planter of Sinanan or planter box of Ter Horst do not line anything, particularly in the ground. In fact, to connect sections of the planter box together, the U-shaped supports 15 and 67 are required, and they include a leg that raises the planter off the ground. Accordingly, it is respectfully believed this rejection is now moot and withdrawal of the same is respectfully requested.

On pages 10-12 of the Office Action the Examiner rejected Claims 12, 15, and 17-19 as being obvious under Sinanan as evidenced by Ter Horst, in view of Mason, III (U.S. Patent No. 5,379,558). As to Claims 12 (and as best as can be understood despite the objection discussed above), 15, 17, 18, and 19, Sinanan discloses the landscaping channel liner apparatus of Claims 11, 8, 16, and 8, respectively, as discussed above on pages 6, 6-7, 7-8, and 6-7 respectively. The Examiner asserted that Sinanan, as evidenced by Ter Horst, fails to explicitly disclose that: (1) the removable portions are perforated segments (claim 12); (2) the selectively

removable portion is defined by at least one perforated seam (claim 15); (3) the plurality of selectively removable portions are each defined by at least one perforated seam (claim 17); (4) the plurality of selectively removable portions share a common perforated seam (Claim 18); and (5) the selectively removable portion comprises a seam extending therefrom to the periphery of the longitudinally-extending floor (Claim 19).

The Examiner continued, however, alleging that Mason, III (see Figs. 4-5) discloses a ground covering mat (110) for ground anchored structures (112), wherein: (1) the mat (110) has selected scored portions (118) which are deemed to constitute perforated segments (Claim 12); (2) the mat (110) has a score line (122) which is deemed to constitute at least one perforated seam (Claim 15); (3) the mat (110) has selected scored portions (118) and a score line (122) which are deemed to constitute a plurality of selectively removable portions which are each defined by at least one perforated seam (i.e., the score line (122) (Claim 17)); (4) the mat (110) has selected scored portions (118) and a scored line (122) which are deemed to constitute perforated segments and a common perforated seam (Claim 18); and (5) the mat (110) has selected scored portions (118) and a scored line (122) which are deemed to constitute the selectively removable portions and seam. The score line or seam (122) of Mason, III extends from the selectively removable portions or scored segments (118) to the periphery of the longitudinally-extending floor (Claim 19).

The Examiner concluded it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan, as evidenced by Ter Horst, by (1) including selectively removable portions which are constituted by perforated segments (as specifically recited in Claim 12); (2) including a selectively removable portion which includes a perforated seam (as specifically recited in Claim 15); (3) including selectively removable portions which are constituted by perforated segments and a perforated seam (as specifically recited in Claim 17); (4) including selectively removable

portions which are constituted by perforated segments and a common perforated seam (as specifically recited in Claim 18); (5) including selectively removable portions which are constituted by perforated segments and a perforated seam (as specifically recited in Claim 19) as taught by Mason, III in order to be able to use the landscaping channel liner apparatus in a lawn or yard which has already pre-existing structures, such as the telephone terminal box 112 (col. 5, lines 6-7) of Mason, III, which would otherwise get in the way and prevent the laying of the landscaping channel liners.

In light of the amendments and prior arguments, this rejection is believed moot. Withdraw of the rejections is, therefore, respectfully requested.

On pages 13-16 of the Office Action the Examiner rejected Claims 1, 3-5, and 7 under 35 U.S.C. 103(a) as being unpatentable over Sinanan in view of Reum et al. As to Claim 1, Sinanan discloses a landscaping channel liner apparatus (see Figs. 19-21 embodiment) comprising: a longitudinally-extending trough (planter box 61) having a longitudinally-extending floor located between opposed longitudinally-extending sidewalls extending therefrom, and having first and second opposed transverse open ends formed from the floor and sidewalls; wherein each of the sidewalls defines a longitudinally-extending edge located opposite the longitudinally-extending floor; a longitudinally-extending receptacle (inwardly turned/rolled upper edge 63) located on each longitudinally-extending edge, each receptacle (inwardly turned/rolled upper edge 63) having first and second transverse open ends; wherein the first transverse open end of the longitudinally-extending receptacle (inwardly turned/rolled upper edge 63) faces the second transverse open end of another longitudinally-extending receptacle (inwardly turned/rolled upper edge 63); and wherein the first transverse open end of one longitudinally-extending receptacle (inwardly turned/rolled upper edge 63) mates with the second transverse open end of the other longitudinally-extending receptacles (inwardly turned/rolled upper edge 63), and the longitudinally-extending receptacles are essentially flush

with each other. The Examiner contends that Sinanan fails to explicitly disclose that each of the longitudinally-extending sidewalls and floor extend longitudinally beyond the first transverse open end of each of the longitudinally-extending receptacles. The Examiner asserts that Reum et al. discloses a landscape edging apparatus (11 in Figs. 19-21 embodiment) having sidewalls which each have a receptacle (14) on longitudinally-extending edges thereof wherein each of the longitudinally-extending sidewalls extend longitudinally beyond the first transverse open end of each of the longitudinally-extending receptacles (14). The Examiner contends it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan by substituting the overlapping sidewall (due to the cut-out or notched portion of the tubular rail 14 as most clearly seen in Fig. 1 of Reum et al.), tubular rail (14 having spaced drip or spray holes - see col. 8, line 50), and fluid coupler (71) type of connection as taught by Reum et al. for the abutting ends of the inwardly turned/rolled upper sidewall portion (63) and hose-like conduit (65) type connection of the planter box sections (61) of Sinanan in order for the nested sidewalls to provide greater strength (due to double thickness) and less chance of separation at abutted ends, while still maintaining the spraying water function. See Reum et al., col. 5, lines 37-44 which teaches the desirability of nesting the end portions of the sidewalls to facilitate installation and co-axial alignment of mating sections.

It is respectfully asserted that Claim 1, as amended, is patentable over Sinanan in view of Ruem. The focus of the Examiner's argument is that overlapping the sidewalls and floor of Sinanan teaches the claimed invention. Neither Reum nor any other reference cited teaches or suggests such a floor as required in Claim 1. To the contrary, such a combination would destroy the functionality and principle purpose of the raised planter in Sinanan. In particular, every embodiment shown in Sinanan requires vertically-oriented tabs 11 of planter box 3 fit in grooves 19 that are disposed in U-shaped supports 15. Each support 15 includes two grooves 19 so the ends of each planter box fit flush against each other forming a single seam. (See Figs. 2 and 5,

for example.) Because vertically-oriented tabs 11 and grooves 19 promote the flush mating between the ends of adjoining planter boxes, there is no ability for overlap of either the sidewalls or the floor. The Examiner's stated rationale for making such a combination was that "nested sidewalls" would "provide greater strength (due to double thickness) and less chance of separation at abutted ends." In other words, Sinanan would benefit by having double walls at the point of connection between consecutive planter boxes. No such motivation exists, however, because every teaching of Sinanan already discloses "double thickness," sidewalls, just through a completely different construction. As shown in Figs. 1, 2, and 6-9, U-shaped supports 15 and 67, their grooves 19 receive the ends of the planter boxes. As Sinanan discloses, the sidewalls of the U-shaped supports provide double wall thickness for each planter box. As a consequence, there is no motivation to add overlapping sidewalls to achieve double thickness to a reference that already has sidewalls of double thickness. This is particularly the case where the attachment of adjoining planters requires the flush seam created when the ends of the planter boxes abut each other. Reconstructing the planter boxes to have overlapping sidewalls and floor would not only destroy the functionality of the attachment means between the planter boxes and the U-shaped supports, but they would also interfere with other structures in the planter boxes such as drainage openings 8 and divider slots 10. (See Figs. 2 and 3.) The disclosure of Sinanan actually teaches **away** from the claimed invention. Accordingly, there is no motivation to combine Reum with Sinanan to accomplish the claimed invention. And, thus, it is respectfully requested that this rejection be withdrawn.

With respect to Claims 4 and 5, they are canceled without disclaimer of subject matter.

As to Claim 3, the Examiner determined that Sinanan in view of Reum et al. discloses the landscaping channel liner apparatus of Claim 1 as discussed above on pages 13-14, and Sinanan in view of Reum et al. also discloses first and second connectors, wherein the first

connector is partially fitted in the first transverse open end of the first longitudinally-extending receptacle and wherein the second connector is partially fitted in the other of the longitudinally-extending receptacles through its first transverse open end.

In light of the amendments made to Claim 1 and the arguments related thereto, this rejection is respectfully believed moot. Accordingly, withdraw of this rejection is respectfully requested.

As to Claim 7, the Examiner asserted that Sinanan in view of Reum et al. discloses the landscaping channel liner apparatus of Claim 3 as discussed above on pages 14-15, and Sinanan in view of Reum et al. also discloses that the first and second connector's interference fit in their respective longitudinally-extending receptacles.

In light of the amendments made to Claim 1 and the arguments related thereto, this rejection is also respectfully believed moot, and withdraw of the rejection is respectfully requested.

On page 6 of the Office Action, the Examiner rejected Claim 6 under 35 U.S.C. 103(a) as being unpatentable over Sinanan in view of Reum et al., as applied to Claims 1, 3, and 4 above on pages 13-15, and further in view of Thomas (U.S. Patent No. 5,315,780). As to Claim 6, the Examiner alleges that Sinanan in view of Reum et al. discloses the landscaping channel liner apparatus of Claim 4 as discussed above on page 15. Neither Sinanan nor Reum et al. explicitly disclose spikes that extend from at least one of the sidewalls. Thomas discloses a lawn edging material anchoring arrangement wherein a landscape edging device has spikes (see Fig. 2) extending from at least one of the sidewalls. The Examiner concluded it would have been obvious to one having skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan in view of Reum et al. to include spikes through

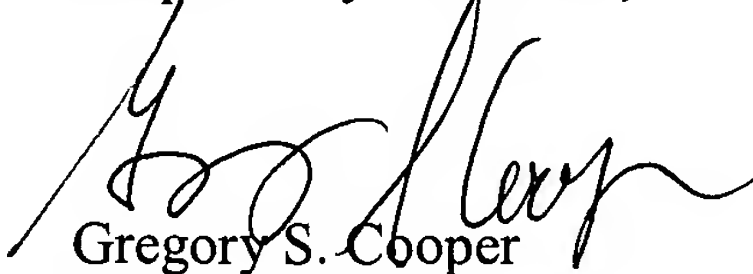
the sidewall as taught by Thomas in order to provide surer anchoring of the channel liner apparatus to the ground.

In light of the amendments made to Claim 1 and the arguments related thereto, this rejection is respectfully believed moot. Nevertheless, Sinanan, as a raised planter does not need to have any spikes extend from its sidewalls to the exterior of the planter, and Ruem shows a barrier, there is no need for these references to include spikes as claimed. Accordingly, withdraw of this rejection is respectfully requested.

It is believed that the above represents a complete response to the Official Action and favorable reconsideration by the Examiner is requested. If, upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact Applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. To the extent additional fees are required, please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 02-1010 (614359/82776) and please credit any excess fees to such deposit account.

Respectfully submitted,



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